DOCUMENT #5383
ADOPTED

M E M O R A N D U M JANUARY 30, 1991

TO: BOSTON REDEVELOPMENT AUTHORITY AND
STEPHEN COYLE, DIRECTOR

FROM: HOMER RUSSELL, ASSISTANT DIRECTOR FOR
URBAN DESIGN AND DEVELOPMENT
JUAN CARLOS LOVELUCK, PROJECT MANAGER

RE: REFUND OF DEPOSIT TO CUSTOM HOUSE TOWER
ASSOCIATES AND THE TRAMMELL CROW COMPANY

EXECUTIVE SUMMARY:
THIS MEMORANDUM REQUESTS AUTHORIZATION FOR THE DIRECTOR TO REFUND TO THE TRAMMELL CROW COMPANY ONE-HALF OF THE $250,000 DEPOSIT MADE TO THE BRA ON SEPTEMBER 19, 1989.

On June 9, 1988, the BRA granted Tentative Designation to Custom House Tower Associates (CHTA) as redeveloper of the Custom House. The General Partners of CHTA at the time were the Trammell Crow Company and James B. White Partners. On September 21, 1989, the BRA Board voted to approve the Lease Commencement Agreement for the Custom House, which was delivered to the BRA by CHTA in executed form together with a deposit of $250,000.

The Lease Commencement Agreement was never entered into by the BRA, nor was a lease for the Custom House ever executed between the BRA and CHTA. The Trammell Crow Company subsequently withdrew its proposal to redevelop the Custom House and the BRA solicited interest from other developers.

The BRA granted Tentative Designation to the Beal Companies on July 26, 1990, and is currently negotiating lease terms. In connection with the project, the BRA has received two deposits in the amount of $250,000 each from the Beal Companies.

CHTA and the Trammell Crow Company have requested by letter dated January 2, 1991 (a copy of which is attached to this memorandum), that the BRA refund one-half of the original $250,000 deposit, or $125,000. We recommend that the BRA accept the terms proposed in the above letter and refund $125,000 of the deposit received on September 21, 1989 in full settlement of the claims by the Trammell Crow Company and CHTA. An appropriate vote follows:

VOTED: That the Director of the Boston Redevelopment Authority is hereby authorized to refund to the Trammell Crow Company the sum of $125,000 in full settlement of any and all claims by the Trammell Crow Company and Custom House Tower Associates regarding the $250,000 deposit made to the Boston Redevelopment Authority on September 21, 1989.

GOODWIN, PROCTER & HOAR
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
COUNSELLORS AT LAW
EXCHANGE PLACE
BOSTON, MASSACHUSETTS 02109-2881

TELEPHONE (617) 570-1000
TELECOPIER (617) 523-1231
TELEX 94-0640
CABLE · GOODPROCT BOSTON

January 2, 1991

Mr. Stephen Coyle, Director
Boston Redevelopment Authority
1 City Hall Square
Boston, MA 02201

Re: Custom House Tower

Dear Steve:

As you know I have been retained by Trammell Crow Company, General Partner of Custom House Tower Associates ("CHTA"), to obtain the $250,000 good faith deposit paid to the Boston Redevelopment Authority ("BRA") on September 19, 1989 in connection with the redevelopment of the Custom House Tower.

The deposit was paid simultaneously with the delivery of the Lease Commencement Agreement ("LCA") which was executed by CHTA prior to the BRA Board Meeting on September 21, 1989. The deposit and the LCA were delivered to the BRA with the understanding and acknowledgement that the transaction would be consummated following the BRA Board approval. Notwithstanding the fact that the LCA was never signed by the BRA, the Trammell Crow deposit check was cashed.

The BRA has since designated a new developer for the Custom House Tower and, as I understand it, has received the initial payments called for by the new development proposal.

In our discussions of this matter, it is proposed that the BRA would return one half of the deposit ($125,000) in full settlement of the claims by Trammell Crow Company and CHTA, provided such payment is made on or before January 25, 1991. It is my understanding that this proposed settlement will be presented to the full BRA Board at its meeting on January 17, 1991. Pending receipt of the foregoing agreed amount Trammell Crow Company and CHTA reserve all rights and claims against the BRA with respect to this matter.

Very truly yours,

Joseph W. Hadley

JWH:hr

XP-6029/t